United Nations E/CN.6/2019/NGO/109

Economic and Social Council

Distr.: General
27 November 2018

Original: English

Commission on the Status of Women
Sixty-third session
11–22 March 2019
Follow-up to the Fourth World Conference on Women and to the twenty-third special session of the General Assembly entitled "Women 2000: gender equality, development and peace for the twenty-first century"

Statement submitted by Mediators Beyond Borders, a non-governmental organization in consultative status with the Economic and Social Council*

The Secretary-General has received the following statement, which is being circulated in accordance with paragraphs 36 and 37 of Economic and Social Council resolution 1996/31.

* The present statement is issued without formal editing.

18-20297 (E) 071218

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Statement

On the occasion of the 63rd session of the Commission on the Status of Women, Mediators Beyond Borders International (MBBI) wishes to highlight the importance of mediation as a tool for women and girls to improve access to justice and public resources, to increase women's participation in governmental and peace-building processes, and to promote opportunities for self-determination and self-protection. Mediators Beyond Borders International supports women's presence at negotiations, capacity-building for mediation and negotiating skills, and the global implementation and use of peace-building and peaceful resolution processes.

Sustainable Development Goal (SDG) 5 recognizes that women and girls are disproportionately affected by disparities in income, social security and receipt of public services, among other inequities. Mediators Beyond Borders International recognises that while access to income, social security, education, and health care are enshrined in international laws and treaties and many national laws, the processes for accessing or enforcing provision of those services can pose obstacles for many women due to cultural, social, economic or political barriers. These formal legal or political processes tend to use power- or rights-based methods, which often exclude women from the process and result in inequitable outcomes when women are allowed to participate. In the Concept Note issued by the Expert Group Meeting convened by UN Women in New York 13–15 September 2018, the Group states that "Social protection systems, public services and sustainable infrastructure are at the heart of achieving the 2030 Agenda for Sustainable Development. Without scaling up investments in this area, virtually all of the 17 Sustainable Development Goals — be they social, economic, environmental or political — will remain out of reach." Mediators Beyond Borders International wishes to add that without significant investment in process structures that empower women's effective participation in decision-making and dispute resolution, such Goals may not be fully attainable.

Mediators Beyond Borders International advocates for interest-based dispute resolution and decision-making processes such as mediation to empower women and girls to be included in decisions, and for meaningful and confidential exploration of issues. Such processes provide the possibility of a resolution founded on women's self-identified interests and outcome. Due to the informal nature of mediation and other such processes, such processes are often designed to safely and appropriately support discussion and problem-solving even when experiences such as trauma, power-imbalances, and gender-based violence concerns are present. Mediation can be a parallel, alternative or extra-legal method for addressing women's needs, struggles, and efforts to access services, and to achieve gender equality in private and public life. These processes and structures may provide greater access to resources that may not traditionally be available by legal processes, administrative processes, governmental participation and public resources or in the least, provide an alternative to court-based litigation. For example, a woman participant may prefer to seek redress of gender discrimination complaints in the workplace and in housing by a confidential and informal process, and may seek restitution and the implementation of future non-discriminatory practices. In short, women and girls can have a hand in creating their own justice.

The September 1995 United Nations Fourth World Conference on Women (The Beijing Platform for Action) deliverable specifically noted alternative structures as a power source for women: "... women have gained access to power through alternative structures, particularly in the non-governmental organization sector. Through non-governmental organizations and grass-roots organizations, women have been able to articulate their interests and concerns and have placed women's issues on the national, regional and international agendas." There are many examples where such

structures (such as mediation) could provide opportunities for expression of interests and concerns. Examples include: a) women" rights to property, income and financial support are often closely linked to their familial or marital ties. Interest-based negotiation relating to marital property, child and spousal support may not be enshrined in the applicable family law, and, in nations where such laws do exist, litigation methods may not be effective to achieve protection for women due to cultural, social, economic or other barriers. Community-based mediation and accessible family mediation (including court-annexed) services often provide an informal and collaborative process where women can participate with negotiation and seek a solution best suited to her particular needs. b) Unionized environments and mediation of administrative complaints can be a source of power for women where local laws may not provide employment protection. Collective bargaining tools, including mediation, can provide opportunities for negotiations where issues affecting women (such as child-care, maternity leave, health benefits, gender and race discrimination, and precarious employment) require a focused, and gender-reflective negotiation methodology.

Human rights are intrinsically linked with rights of self-determination. Mediators Beyond Borders International believes self-determination cannot be achieved unless there is equal representation of gender at high-level negotiations and consultations on national public economic and legislative change, especially relating to issues affecting women, such as sexual and domestic violence, health care, reproductive rights, child care, income equality, indigenous affairs, and educational opportunities for girls. In addition, Mediators Beyond Borders International recognizes the need for more women mediators at international, national and local levels. For women to create local opportunities for learning, collaboration and skills development, there needs to be a localized approach of women-to-women mentorship. Through its International Training Institute (ITI), Mediators Beyond Borders International provides skills-building training that empowers women in leadership roles and provides skills to become more engaged in peacebuilding, conflict resolution and prevention, education and partnerships.

Promoting women as mediators and peacebuilders is both a challenge and an opportunity. In 2009, the United Nations Secretary General issued a report (S/2009/189) on enhancing mediation and its support activities, while describing the need for experienced and knowledgeable mediators and support teams, with women adequately represented. In the report, the Secretary General recommended fostering the gender balance and expertise in senior mediation posts. A UN Women Report entitled "Women's Participation in Peace Negotiations: Connections between Presence and Influence" (2012, at 26) concluded that "women's absence in peace processes cannot be explained by their alleged lack of experience in conflict resolution or negotiations. Instead there has been a lack of effort to integrate them in formal peace processes." The United Nations Secretary-General's Seven Point Action Plan on Women and Peacebuilding (A/65/354-S/2010/466 also calls on the United Nations to ensure that technical assistance in conflict resolution processes furthers women's participation as appointed decision makers.

While there is a desire by the United Nations and other stakeholders to include women in mediated forums, there may be a gap between the perceived talent pool and the actual pool of international, national, and local talent available that are highly trained and highly qualified mediators. Mediators Beyond Borders International believes stakeholders must take initiatives to identify, recruit and promote women mediators in all forms of negotiation. In addition, mediators must also take great care to include women's voices in the mediation process.

Mediators Beyond Borders International provides the following recommendations to the 63rd session of the Commission of the Status of Women for consideration:

Establish a national mediation task force to review and assess recommendations to improve women's access to mediation and other services for family law matters, including property division and financial support, and for discrimination, harassment, and other challenges women face in the workplace.

Ensure equal representation of gender at high-level negotiations and consultations on national public economic and legislative change. Representation of gender equity is especially relevant to issues affecting women, such as sexual and domestic violence, health care, reproductive rights, child care, income equality, indigenous affairs, employment, and educational opportunities for girls.

Promote investment in mediation structures at international, national and local levels in order to provide processes and structures for dispute resolution where court-based litigation or arbitration options may be inaccessible to or prohibitive for women.

Encourage trade unions and the private sector to include women's equal participation in collective bargaining and negotiation and to hire women mediators and arbitrators to ensure that women's interests are equally represented and considered.

Support pay equity between women and men in collective bargaining negotiations and support pay equity for women mediators.